

No. 5:09-CR-253-F

UNITED STATES OF AMERICA,
Respondent.

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Had the District Court here been confronted not with merely a conclusory allegation, but with some factual allegations indicating a denial of respondent's [constitutional rights], the court might have concluded that such a claim was not frivolous, and further decided that a free transcript should be furnished pursuant to § 753(f).

United States v. MacCollum, 426 U.S. 317, 325-36 (1976) (citation omitted) (footnote omitted).

Because there is no constitutional requirement that an indigent defendant be supplied free transcripts (or other court documents) in order to collaterally attack a conviction or sentence, the defendant must show a "particularized need" for the documents. *See id.* at 323-30; *Morin v. United States*, 522 F.2d 8, 9 (4th Cir. 1975); *Jones v. Superintendent, Virginia State Farm*, 460 F.2d 150, 152-53 (4th Cir. 1972).

The Rules Governing Section 2255 Proceedings require only that the petitioner "state the facts supporting each ground" for relief. *Id.*, Rule 2(b). A § 2255 motion should not attempt to discuss case law or to make specific reference to the court record or transcript. If appropriate on a later day, discovery thereafter *may* be available in the § 2255 proceeding. *Id.*, Rule 6.

McQueen has failed to state why he needs a transcripts of the jury selection process, the lawyers' opening and closing arguments, and the jury charges from his trial, and therefore has failed to demonstrate a "particularized need" therefor. An indigent petitioner is not entitled to transcripts at government expense "merely to comb the record in the hope of discovering some flaw." *United States v. Glass*, 317 F.2d 200, 202 (4th Cir. 1963). *In fact, absent a showing of particularized need, the jury selection process, the lawyers' arguments, and the jury charge ordinarily are not even transcribed for trials before the undersigned, and counsel are so notified in writing.*

Because McQueen has failed to show a particularized need for the requested transcripts, his motion [DE-137] seeking a copy thereof is DENIED without prejudice to renew his motion upon a proper showing, as detailed herein.

SO ORDERED.

This, the 27th day of January, 2012.



JAMES C. FOX
Senior United States District Judge